IN THE HIGH COURT OF MADHYA PRADESH AT JABALPUR

BEFORE

HON'BLE SHRI JUSTICE VIVEK JAIN

ON THE 21st OF NOVEMBER, 2023

MISC. PETITION No. 2546 of 2022

BETWEEN:-

1. **MUHAMMAD FIROJ KHAN S/O LATE SRI MUHAMMAD LALLU MUSALMAN, AGED ABOUT 27 YEARS, OCCUPATION: AGRICULTURE R/O VILLAGE AND POST WAIDHAN TAHSIL AND DISTRICT SINGROULI (MADHYA PRADESH)**

2. **SONAPATI DEVI W/O LATE SHRI JUDAGIR PRASAD SONI D/O SHIV SHANKAR SAW, AGED ABOUT 57 YEARS, OCCUPATION: AGRICULTURE R/O VILLAGE POST KARABLOK OBRA DISTRICT AORANGABAD BIHAR PRESENT R/O TULSI MARG WAIDHAN POST WAIDHAN TAHSIL DISTRICT SINGRAULI (MADHYA PRADESH)**

3. **SATYANARAYAN SONI S/O NANDLAL SONI, AGED ABOUT 43 YEARS, OCCUPATION: AGRICULTURE R/O WARD NO. 40 TULSI MARG ADARSH ROAD WAIDHAN POST WAIDHAN TAHSIL DISTRICT SINGRAULI (MADHYA PRADESH)**

.....PETITIONERS

(BY SHRI SANJEEV KUMAR TIWARI -ADVOCATE)

AND

1. **BINDA DEVI W/O SHRI VIMAL CHAND, AGED ABOUT 57 YEARS, OCCUPATION: HOUSEWIFE HOUSE NO.A 113 AND 115 BIHAR COLONI SHAKTINAGAR AND POST SHAKTINAGAR DISTRICT HADRA U.P. PRESENT R/O VILLAGE DHOTI POLICE STATION VINDHYANAGAR POST VINDHYANAGAR TEHSIL AND DISTRICT SINGROULI (MADHYA PRADESH)**

2. **FIROJA KHATOON D/O LATE MUHAMMAD LALLU W/O MUHAMMAD SHARIF, AGED ABOUT 41 YEARS, R/O VILLAGE BARHI DISTRICT SONBHADRA UP PRESAT R/O VILLAGE WAIDHAN POST WAIDHAN TAHSIL AND DISTRICT**

Signature Not Verified
Signed by: ARVIND KUMAR MISHRA
Signing time: 12/20/2023 5:31:58 PM

SINGRAULI (MADHYA PRADESH)

3. THE STATE OF M.P. THROUGH COLLECTOR DISTRICT SINGRAULI M.P. (MADHYA PRADESH)

.....RESPONDENTS

(RESPONDENT NO. 1 BY SHRI R.K. SNAGHI -ADVOCATE)

This petition coming on for admission this day, the court passed the following:

ORDER

This petition has been filed under Article 227 of the Constitution of India by the Defendants challenging the orders Annexure P-8 and P-9 whereby the temporary injunction has been granted to the plaintiff/present respondent No.1 and the said order has been upheld by the Appellate Court. The defendants have been restrained from raising construction or alienating the suit lands.

2. The facts of the case reveal that a suit has been filed by the plaintiff for specific performance of contract and for declaring the subsequent sale deed as null and void. The agreement to sale has been executed in favour of the respondent No.1 by the respondent No.2. As per plaint allegations, earlier the respondent No.2 was having 1/9 share in family property as per partition dated 18.3.2015 but thereafter a subsequent partition was effected after agreement had been entered into with the plaintiff, and by that subsequent partition, the share of the respondent No.2 was wiped out. This, it is alleged, was just to frustrate the case of the plaintiff who was asserting her rights flowing from agreement to sale executed by the respondent No.2.

3. The trial Court allowed the application, holding that a prima facie case in made out in favour of the plaintiff. It was held that further sale and construction on the suit land shall further complicate the issue and shall give rise to multiplicity of proceedings. The trial Court took note of the submission of

Signature Not Verified
Signed by: ARVIND KUMAR MISHRA
Signing time: 12/20/2023 5:31:58 PM

the plaintiff that the defendant No.1 and her brother are in connivance with each other in getting repeated partition of the lands owned by the family. The trial Court also held that there is balance of convenience as well as likelihood of irreparable loss being caused to the plaintiff if injunction is not granted.

4. Before the Appellate Court, the present petitioner/defendant took the plea that no rights flow form a mere agreement to sale and that the lands under agreement are different from the lands involved in second partition, thus, it was contended that the injunction has been wrongly granted.

5. The Appellate Court took note of the fact that huge amount has been taken from the plaintiff by the defendant No,2 and that on the date of agreement, the name of defendant No.1 was there in the revenue records. The appellate Court noted that it appears that the defendants No. 1 and 2 are in collusion. Considering the overall circumstances of the case, the Appellate Court rejected the appeal and affirmed the order of the Trial Court granting injunction. The relief of temporary injunction is a equitable and discretionary relief and looking to the above facts taken in consideration by the Courts below, the discretion appears to have been exercised correctly and judiciously by the courts below. The petition sans merit, stands dismissed.

6. The trial Court is requested to endeavour to decide the suit expeditiously, if possible, within a period of 9 months

(VIVEK JAIN)
JUDGE

MISHRA

Signature Not Verified
Signed by: ARVIND KUMAR MISHRA
Signing time: 12/20/2023 5:31:58 PM